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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

In re Tentative Cleanup and Abatement  
Order No. R9-2010-0002

**STIPULATION REGARDING  
DISCOVERY EXTENSION**

C.C.P. § 2024.060

Presiding Officer: David A. King

1           WHEREAS, on February 18, 2010 the Presiding Officer to the foregoing matter  
2 entered a Final Discovery Plan providing that all discovery in this proceeding would be  
3 completed by August 23, 2010, and governed generally by the California Code of Civil  
4 Procedure unless modified by the Final Discovery Plan;

5           WHEREAS, San Diego Coastkeeper and Environmental Health Coalition  
6 (“Environmental Groups”) have indicated that they cannot produce their designated expert for  
7 deposition prior to the close of the current discovery period on August 23, 2010;

8           WHEREAS, the Cleanup Team’s counsel has indicated that counsel will not be  
9 able to defend depositions of all Cleanup Team members prior to the discovery close on August  
10 23, 2010, due to State budget and other constraints, and the Cleanup Team has filed a motion  
11 with the Presiding Officer seeking to extend the date for completion of the Cleanup Team  
12 depositions beyond August 23, 2010;

13           WHEREAS, the Environmental Groups have requested that the other designated  
14 parties agree to an extension of the August 23, 2010 discovery deadline pursuant to Code of  
15 Civil Procedure section 2024.060;

16           WHEREAS, all designated parties agree to extend the discovery period until  
17 October 26, 2010, 60 days after the anticipated release of a revised Cleanup and Abatement  
18 Order and Draft Technical Report on August 27, 2010 (the “Revised Tentative CAO/DTR”), but  
19 only for the specific and limited purposes provided herein, and subject to the terms and  
20 conditions set forth below;

21           WHEREAS, California Code of Civil Procedure section 2024.060 provides that  
22 the parties to an action may consent to the extension of the time for completion of discovery  
23 proceedings, without court approval, where such an extension will not require a continuance or  
24 postponement of trial;

25           WHEREAS, a hearing on the merits of the Tentative CAO/DTR has not been set,  
26 and is not anticipated to take place in 2010;

27           NOW THEREFORE, the designated parties hereby stipulate and agree, through  
28 their undersigned counsel below, that the written discovery period in the foregoing matter shall

1 be extended up to and including September 26, 2010, and all other discovery, including  
2 depositions and expert reports, shall be extended up to and including October 26, 2010, subject  
3 to the following terms and conditions:

4           1.       The extension of time contemplated by this stipulation is intended  
5 primarily to ease the burden of certain parties in responding to discovery that has already been  
6 timely propounded so that it could otherwise be completed within the parameters of the Final  
7 Discovery Plan. This extension will therefore extend the time period for responding to any  
8 pending written discovery, as well as the time period to complete the depositions of any  
9 witnesses that have been timely served with deposition notices or subpoenas pursuant to the  
10 Final Discovery Plan.

11           2.       Pursuant to this stipulation, with respect to currently pending written  
12 discovery and deposition notices to the Cleanup Team, the Cleanup Team agrees to modify the  
13 definition of the Tentative CAO/DTR in that discovery to also include the Revised Tentative  
14 CAO/DTR.

15           3.       Pursuant to this stipulation, designated parties may propound new  
16 discovery requests against the Cleanup Team only, and not against any other designated party;  
17 provided, however, that any new discovery requests will be limited to discovery (i) pertaining to  
18 revisions made to the Revised Tentative CAO/DTR, relative to the prior version of the Tentative  
19 CAO/DTR released publicly on December 22, 2009, and (ii) that could not, in the exercise of  
20 reasonable diligence, have been served prior to the release of the Revised CAO/DTR. This  
21 stipulation is not intended to alter or affect any party's discovery rights that existed as of the date  
22 of execution of this stipulation. There is disagreement among the parties regarding the extent of  
23 those rights.

24           4.       Aside from additional discovery against the Cleanup Team discussed in  
25 the preceding paragraph, the extension contemplated in this stipulation does not authorize the  
26 service of any new discovery requests against any other designated party, including written  
27 discovery or depositions, that could not otherwise have been completed on or before August 23,  
28 2010 pursuant to the Final Discovery Plan.

1                   5.       This stipulation does not prohibit any party from seeking permission from  
2 the Presiding Officer to take additional discovery that is not authorized by this stipulation or the  
3 terms of the Final Discovery Plan.

4                   6.       Timothy Gallagher, Esq., the appointed Discovery Referee in the Final  
5 Discovery Plan, is authorized to resolve any discovery disputes that may arise during the  
6 extended discovery period provided by this stipulation. Any decision by Mr. Gallagher  
7 regarding a discovery dispute may be appealed to the Presiding Officer, but Mr. Gallagher's  
8 decision will be final absent an appeal and final ruling by the Presiding Officer.

9                   7.       Mr. Gallagher shall promptly advise the Presiding Officer of this  
10 stipulation after it has been executed by counsel for all designated parties.

11                   IT IS SO STIPULATED.

12 Dated: August 9, 2010

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14 By:   
15 MICHAEL S. TRACY  
16 MATTHEW B. DART  
17 Attorneys for BAE SYSTEMS SAN  
DIEGO SHIP REPAIR INC., and  
SOUTHWEST MARINE, INC.

18 Dated: August 9, 2010

LATHAM & WATKINS LLP

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20 By:   
21 KELLY E. RICHARDSON  
22 Attorneys for Appellant  
23 NATIONAL STEEL & SHIPBUILDING  
24 COMPANY  
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1 Dated: August 9, 2010

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By:   
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8 Dated: August 9, 2010

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14 Dated: August 9, 2010

UNIFIED PORT DISTRICT OF SAN DIEGO

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By \_\_\_\_\_  
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Attorneys for SAN DIEGO UNIFIED  
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SAN DIEGO COASTKEEPER and  
ENVIRONMENTAL HEALTH COALITION

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SAN DIEGO GAS & ELECTRIC COMPANY  
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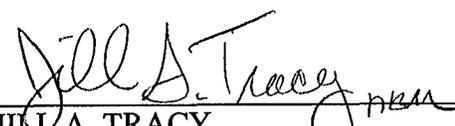
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